

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 19-1301V**

MARTHA BUCK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 17, 2023

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for  
Petitioner.*

*Catherine Elizabeth Stolar, U.S. Department of Justice, Washington, DC, for  
Respondent.*

**DECISION AWARDING DAMAGES<sup>1</sup>**

On August 27, 2019, Martha Buck filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza (“flu”) vaccine received in her left deltoid on December 24, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 23, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On November 16, 2023, Respondent filed a proffer on award

---

<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

of compensation (“Proffer”) indicating Petitioner should be awarded \$35,000.00. Proffer at 2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$35,000.00 (in pain and suffering) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

---

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties’ joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

MARTHA BUCK,

Petitioner,

V.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 19-1301V

Chief Special Master Corcoran  
ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On August 27, 2019, Martha Buck (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”), as defined in the Vaccine Injury Table, following administration of an influenza vaccine she received on December 24, 2017. Petition at 1. On May 13, 2022, petitioner filed a Motion for a Ruling on the Record (“Motion”) arguing that she had established entitlement to compensation for a SIRVA. ECF No. 30. Respondent filed his Response to petitioner’s Motion on July 27, 2022, recommending that entitlement to compensation be denied. ECF No. 33. Petitioner filed a Reply in support of her Motion on August 3, 2022. ECF No. 34. On August 23, 2023, the Court issued a Ruling on Entitlement, finding petitioner entitled to compensation.<sup>1</sup> ECF No. 35.

<sup>1</sup> Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Chief Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such a damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master's August 23, 2023 entitlement decision.

**I. Items of Compensation**

**A. Pain and Suffering**

Respondent proffers that petitioner should be awarded **\$35,000.00** in pain and suffering.

*See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

The above amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following<sup>2</sup>: a lump sum payment of **\$35,000.00**, in the form of a check payable to petitioner.

**III. Summary of Recommended Payments Following Judgment**

Lump sum payable to petitioner, Martha Buck:	<b>\$35,000.00</b>
--	--------------------

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO  
Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

---

<sup>2</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

DARRYL R. WISHARD  
Assistant Director  
Torts Branch, Civil Division

/s/ Catherine E. Stolar

CATHERINE E. STOLAR  
Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Tel.: (202) 353-3299  
Fax: (202) 616-4310  
Email: catherine.stolar@usdoj.gov

DATED: November 16, 2023